

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

KEITH O. MORRISON,

Plaintiff,

v.

17-CV-996-LJV-MJP
DECISION & ORDER

STEVE VINE, *et al.*,

Defendants.

On October 3, 2017, the *pro se* plaintiff, Keith O. Morrison, commenced this action under 42 U.S.C. § 1983. Docket Item 1. On November 15, 2019, after twice granting Morrison leave to amend the complaint, this Court dismissed all claims except Morrison's malicious-abuse-of-process claim against defendants Steve Vine, Eric Heieck, and John Van Savage. See Docket Items 6, 13.

On January 17, 2020, this Court referred this case to United States Magistrate Judge Hugh B. Scott for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 19. On March 9, 2020, the defendants moved to dismiss the only remaining claim. Docket Item 27. Morrison did not respond to that motion.

On February 24, 2021, the case was reassigned to Magistrate Judge Jonathan W. Feldman.¹ Docket Item 34. On February 25, 2021, Judge Feldman issued a Report and Recommendation ("R&R") finding that the defendants' motion to dismiss should be granted because they were entitled to qualified immunity and that Morrison should not

¹ On March 9, 2021, the case was reassigned to Magistrate Judge Mark W. Pederson. Docket Item 36.

be given leave to amend. Docket Item 35. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Feldman's careful and thorough R&R. Based on that review and the absence of any objections, the Court accepts and adopts the R&R's recommendation to grant the defendants' motion to dismiss and to deny Morrison leave to amend.

For the reasons stated above and in the R&R, the defendants' motion to dismiss, Docket Item 27, is GRANTED; the complaint is DISMISSED; and the Clerk of the Court shall close the file.

SO ORDERED.

Dated: March 30, 2021
Buffalo, New York

/s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE